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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,949	02/14/2002	Jiro Onoyama	NIA0001-US	1601

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EXAMINER

BROOKS, MATTHEW L

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/073,949	Applicant(s) ONoyAMA, JIRO	
	Examiner Matthew L. Brooks	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 1, 2 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

1. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains "**no new matter**". Which was missing from the new specification submitted on July 24th, 2002.

It should also be noted that Examiner reserves the right to make further Paragraph 112 rejections.

Examples of the problems found with Applicant's English in the specification:

[0002] "For example, since it stands in a line from a beforehand day on the previous day in the case of popular concert and sport, we are anxious about the management or completeness to people." This makes absolutely no sense to Examiner.

[0005] "...while a buyer can choose the purchase method for which oneself wishes." Is improper English. Along with, "The fourth purpose is to cancel inconvenient based on order pours simultaneously with sale and the unfair feeling by the application of the telephone, through the network, etc."

[0054] "... the applicant must choose either (a) remain in a lottery system like turning to God for help or (b) must choose the lottery system or auction system;..."

There are so many more that this whole specification could quite possibly comprise a Paragraph 112 first rejection, which Examiner notes that it may, but is currently unable to decipher. However for purposes of this office action an attempt was made to give a reasonable interpretation of the claims in light of the submitted specification.

Claim Objections

2. **Claims 1 and 5** are objected to because of the following informalities: "an application procedure transmitting function which transmits a purchase information", appears to be improperly worded. Also, the word "purport" appears to be improper. Appropriate correction is required.
3. **Claim 2** is objected to because of the following informalities: "...corresponding to the ratio of the total number of the application of the performance after an application registration period end". Examiner interpreted this to mean "...corresponding to the ratio of the total number of the applications for a performance ticket after the application registration period has ended". However, appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-7** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. Due to Examiner's difficulty deciphering the specification, Examiner is uncertain how Applicant intended to auction a multitude of performance tickets and if the invention is actually enabled. However, for purposes of examination and until a decipherable specification is received, Examiner assumed that the Applicant did have possession of the claimed invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-7** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly Claim 7, which is barely understandable by the Examiner for review.

Examples of the idiomatic language which makes the claims indefinite found with in the claims include:

Claim 1: "...an application procedure transmitting function which transmits a purchase information..." Examiner interpreted this to mean transmits purchase information unless Applicant intended otherwise.

"...a selection method of a lottery system and an auction system *about the application* of the performance ticket...". Examiner interpreted this to mean that when an applicant is purchasing a ticket, s/he is given the option of auction or lottery.

Claim 7: "... to the client surely needed the ticket of the performance although it becomes higher than the regular price after a success-in-an-election probability..."

Examiner considered this to mean that the applicant was notified beforehand that he has options as to whether to try to get the ticket via lottery or auction and the whole process is transparent.

8. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claims 1-7** are rejected under 35 U.S.C. 102(e) as being anticipated by O'Keeffe et al; Pub. No. US 2002/0082969 A1. (O'Keeffe)

11. With respect to **Claim 1 and 5**:

O'Keeffe discloses a selling system of a selling system of a performance ticket including a server that supplies a performance information to a client terminal through a network comprising (See Figure 1):

the server includes a performance information transmitting function which transmits the performance information stored in the performance information DB (See Fig 1, Fig 2, and Page 8 [0088];

an application procedure transmitting function which transmits a purchase information which is stored in a purchase procedure information DB (See Fig 1, Fig 2, Page 3 [0033], and Page 8 [0090];

and shown the purport that a selection method of a "lottery system" and an "auction system" about the application of the performance ticket in a display screen of the client terminal (See Fig 2 and Page 8[0095];

a success-in-an-election probability transmitting function which transmits the success-in-an-election probability information acquired and based on a success-in-an-election probability rule on the basis of a total number of the application and sold ticket number of sheets to the applicant who participates in an auction hall (See Page 8 [0089] and Page 9 [0098]), Applicant in his specification defines the "success-in an election probability rule" as nothing more than taking the total number of tickets divided by the total number of applications for ticket. O'Keeffe inherently must do the same thing in order to keep the process transparent and provide transaction data;

and a function transmitting notice of success in an election, drawing a lottery means to the applicant who chose the lottery system, on the other hand, awarding with a successful bid means to the participant who chose the auction system (See Page 8 [0094] and Page 9 [0105]),

and transmitting the notice of success in the election to the successful bidder and the successful candidate (See Page 10 [0108]).

12. With respect to **Claim 2**: O'Keeffe discloses

wherein the success-in-an-election probability rule further includes a formula that is distributed in equal to one of "lottery system" and "auction system" respectively corresponding to the ratio of the total number of the application of the performance after an application registration period end (See Pages 3-4 [0037]) where in O'Keeffe discloses selecting from a multitude of different formulas to perform altering the size of the lottery and auction pools and applicant simply chose a species thereof.

13. With respect to **Claim 3**: O'Keeffe discloses

wherein the server further includes an applicant discernment means that has a function to check when the applicant registered into a lottery system selection person information DB participates in the auction hall further (Pages 9-10 [0107]) Although O'Keeffe does not use the term "applicant discernment means" O'Keeffe inherently must have one in order to keep an applicant's participation history.

14. With respect to **Claim 4**: O'Keeffe discloses

wherein the server further includes a progress situation transmitting function to transmit the state of auction information (See Page 8 [0094]) Where at the bottom of the paragraph O'Keeffe allows a customer to be notified when the auction price changes.

15. With respect to **Claim 6**: O'Keeffe discloses

wherein the server urges to the accessed client terminal to choose one of "lottery system" and "auction system" on a choice screen about sale of the ticket in the Internet (Fig 2, 205).

16. With respect to **Claim 7**: O'Keeffe discloses

wherein the server notifies to the screen of the client terminal that another purchase system is offered beforehand to the client surely needed the ticket of the performance although it becomes higher than the regular price after a success-in-an-election probability (or total number of the applications) of the performance becomes clear before the client inputs a matter required into an application data input screen and clicks the last application button and completes the application (See Page 8 [0091]).

It should first be noted that Examiner truly had extreme troubles deciphering any meaning to this claim (See above). However referring to the specification and giving the wording of the claim the broadest reasonable interpretation a rejection was formed.

Examiner interpreted the claim to mean that the client is notified that she has a choice between and auction or lottery and after the client chooses one of the options continues to click "the last application button". Although O'Keeffe does not use the terms "last application button", O'Keeffe does disclose a highly transparent auction/lottery system (Page 9 [0098]) and application process where in a client may choose either auction or lottery (Page 9 [0091]) inherently there must be some way for a client to finish the application process, thus "last application button" is disclosed.

Conclusion

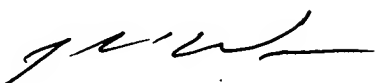
17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure include Shkedy, patent number 6,260,240.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-605-1202. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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